

Shahrad Milanfar (SBN 201126)
smilanfar@bkscal.com
 Alex P. Catalona (SBN 200901)
acatalona@bkscal.com
BECHERER KANNETT & SCHWEITZER
 1255 Powell Street
 Emeryville, CA 94608
 Telephone: (510) 658-3600
 Facsimile: (510) 658-1151

Attorneys for Defendant
 PRECISION VALVE & AUTOMATION, INC.

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

RUBEN JUAREZ, an individual and
 ISELA HERNANDEZ, an individual,

Plaintiffs,

PRECISION VALVE &
 AUTOMATION, INC., a corporation
 and DOES 1-20,

Defendants.

CASE NO. CV17-03342-ODW (GJSX)
 [L.A.S.C. Case No. BC650229]

**DECLARATION OF ALEX P.
 CATALONA IN SUPPORT OF
 DEFENDANT PRECISION VALVE
 & AUTOMATION, INC.'S MOTION
 FOR SUMMARY JUDGMENT**

Date: October 1, 2018
 Time: 1:30 p.m.
 Ctrm: 5D, 5th Floor
 Judge: Hon. Otis D. Wright II

*This motion is made following the
 conference of counsel pursuant to L.R.
 7-3 which took place on July 16, 2018.
 (Catalona Dec., 9:9-17, 690-694.)

**Defendant requests oral argument on
 this motion for summary judgment.

Becherer
 Kannett &
 Schweitzer

1255 Powell St.
 Emeryville, CA
 94608
 510-658-3600

1 I, ALEX P. CATALONA, declare,

2 I am an attorney employed by the law firm of Becherer Kannett & Schweitzer,
3 attorneys of record for defendant Precision Valve & Automation, Inc. ("PVA"). I have
4 personal knowledge of the following facts and could competently testify to those facts if
5 called as a witness.

6 1. Attached hereto as Exhibit 1 is a true and correct copy of Plaintiffs'
7 "Complaint For Damages" filed against PVA in California Superior Court on February
8 28, 2017.

9 2. Attached hereto as Exhibit 2 is a true and correct copy of PVA's Notice of
10 Removal Under 28 U.S.C. § 1441(a) (Diversity).

11 3. Attached hereto as Exhibit 3 is a true and correct copy of PVA's Notice of
12 Filing State Court Answer and Demand For Jury Trial.

13 4. Attached hereto as Exhibit 4 is a true and correct copy of Plaintiffs' First
14 Amended Complaint For Damages.

15 5. Attached hereto as Exhibit 5 is a true and correct copy of PVA's First
16 Amended Answer To Complaint.

17 6. Attached hereto as Exhibit 6 is a true and correct copy of Plaintiffs' Initial
18 Rule 26(a)(1) Disclosures.

19 7. Attached hereto as Exhibit 7 is a true and correct copy of PVA's Initial Rule
20 26(a)(1) Disclosures.

21 8. Attached hereto as Exhibit 8 is a true and correct copy of PVA's
22 Supplemental Rule 26(a)(1) Disclosures.

23 9. Attached hereto as Exhibit 9 is a true and correct copy of Plaintiffs'
24 Supplemental Rule 26(a)(1) Disclosures.

25 10. Attached hereto as Exhibit 10 is a true and correct copy of PVA's
26 Interrogatories to Plaintiff Ruben Juarez, Set One.

27 11. Attached hereto as Exhibit 11 is a true and correct copy of Plaintiff Ruben
28

**Becherer
Kannett &
Schweitzer**

1255 Powell St.
Emeryville, CA
94608
510-658-3600

1 Juarez's Responses to PVA's Interrogatories, Set One.

2 12. Attached hereto as Exhibit 12 is a true and correct copy of PVA's
3 Interrogatories to Plaintiff Isela Hernandez, Set One.

4 13. Attached hereto as Exhibit 13 is a true and correct copy of Plaintiff Isela
5 Hernandez's Responses to PVA's Interrogatories, Set One.

6 14. Attached hereto as Exhibit 14 is a true and correct copy of PVA's
7 Interrogatories to Plaintiff Ruben Juarez, Set Two.

8 15. Attached hereto as Exhibit 15 is a true and correct copy of Plaintiff Ruben
9 Juarez's Responses to PVA's Interrogatories, Set Two.

10 16. Attached hereto as Exhibit 16 is a true and correct copy of PVA's
11 Interrogatories to Plaintiff Isela Hernandez, Set Two.

12 17. Attached hereto as Exhibit 17 is a true and correct copy of Plaintiff Isela
13 Hernandez's Responses to PVA's Interrogatories, Set Two.

14 18. Attached hereto as Exhibit 18 is a true and correct copy of PVA's Request
15 For Production of Documents and Electronically Stored Information to Plaintiff Ruben
16 Juarez, Set One.

17 19. Attached hereto as Exhibit 19 is a true and correct copy of Plaintiff Ruben
18 Juarez's Responses To PVA's Request for Production of Documents and Electronically
19 Stored Information, Set One.

20 20. Attached hereto as Exhibit 20 is a true and correct copy of PVA's Request
21 For Production of Documents and Electronically Stored Information to Plaintiff Isela
22 Hernandez, Set One.

23 21. Attached hereto as Exhibit 21 is a true and correct copy of Plaintiff Isela
24 Hernandez's Responses To PVA's Request for Production of Documents and
25 Electronically Stored Information, Set One.

26 22. Attached hereto as Exhibit 22 is a true and correct copy of PVA's Request
27 For Production of Documents and Electronically Stored Information to Plaintiff Ruben

28 -3-

DECLARATION OF ALEX P. CATALONA IN SUPPORT OF DEFENDANT PRECISION VALVE
& AUTOMATION, INC.'S MOTION FOR SUMMARY JUDGMENT

Becherer
Kannett &
Schweitzer

1255 Powell St.
Emeryville, CA
94608
510-658-3600

1 Juarez, Set Two.

2 23. Attached hereto as Exhibit 23 is a true and correct copy of Plaintiff Ruben
3 Juarez's Responses To PVA's Request for Production of Documents and Electronically
4 Stored Information, Set Two.

5 24. Attached hereto as Exhibit 24 is a true and correct copy of PVA's Request
6 For Production of Documents and Electronically Stored Information to Plaintiff Isela
7 Hernandez, Set Two.

8 25. Attached hereto as Exhibit 25 is a true and correct copy of Plaintiff Isela
9 Hernandez's Responses To PVA's Request for Production of Documents and
10 Electronically Stored Information, Set Two.

11 26. Attached hereto as Exhibit 26 is a true and correct copy of PVA's Request
12 For Production of Documents and Electronically Stored Information to Plaintiff Ruben
13 Juarez, Set Three.

14 27. Attached hereto as Exhibit 27 is a true and correct copy of Plaintiff Ruben
15 Juarez's Responses To PVA's Request for Production of Documents and Electronically
16 Stored Information, Set Three.

17 28. Attached hereto as Exhibit 28 is a true and correct copy of Plaintiffs'
18 Privilege Log in this matter.

19 29. Attached hereto as Exhibit 29 is a true and correct copy of a series of emails
20 on June 23, 2018 and June 24, 2018 in which plaintiffs' counsel stated that plaintiffs have
21 not amended or supplemented their Privilege Log in this case after responding to multiple
22 sets requests for production of documents and electronically stored information in this
23 matter.

24 30. Attached hereto as Exhibit 30 is a true and correct copy of true and correct
25 copies of relevant excerpts from the deposition of plaintiff Ruben Juarez taken in this
26 action.

27 31. Attached hereto as Exhibit 31 is a true and correct copy of Exhibit 27 to the

28 -4-

DECLARATION OF ALEX P. CATALONA IN SUPPORT OF DEFENDANT PRECISION VALVE
& AUTOMATION, INC.'S MOTION FOR SUMMARY JUDGMENT

Becherer
Kannett &
Schweitzer

1255 Powell St.
Emeryville, CA
94608
510-658-3600

1 deposition of plaintiff Ruben Juarez taken in this matter. This document is plaintiff
 2 Juarez's employment application made to Space Exploration Technologies Corp.
 3 ("SpaceX") and was produced in plaintiff Juarez's workers' compensation action.

4 32. Attached hereto as Exhibit 32 is a true and correct copy of Exhibit 28 to the
 5 deposition of plaintiff Ruben Juarez taken in this matter. This document is a letter from
 6 SpaceX which offers plaintiff Juarez a position at SpaceX, and shows that it was signed
 7 by Mr. Juarez on December 30, 2011.

8 33. Attached hereto as Exhibit 33 is a true and correct copy of Exhibit 32 to the
 9 deposition of Ruben Juarez taken in this matter. This document is plaintiff Ruben
 10 Juarez's workers' compensation claim signed by Mr. Juarez and dated September 24,
 11 2014.

12 34. Attached hereto as Exhibit 34 is a true and correct copy of Exhibit 4 to the
 13 deposition of Ruben Juarez taken in this matter. This document contains pictures of the
 14 PVA 350 which were discussed at plaintiff Juarez's deposition.

15 35. Attached hereto as Exhibit 35 is a true and correct copy of Exhibit 29 to the
 16 deposition of plaintiff Ruben Juarez taken in this matter. This document is a record of a
 17 March 14, 2013 medical history of Mr. Juarez from Cedars-Sinai Medical Center.

18 36. Attached hereto as Exhibit 36 is a true and correct copy of a February 3,
 19 2015 medical record produced by Isaac Regev, M.D., in this matter. Dr. Regev is one of
 20 the doctors consulted regarding plaintiff Juarez's claims in his workers' compensation
 21 action. This document is the same document as Exhibit 37 but was produced in this
 22 action. Exhibit 37 was produced in the workers' compensation action.

23 37. Attached hereto as Exhibit 37 is a true and correct copy of Exhibit 39 to the
 24 deposition of plaintiff Ruben Juarez taken in this matter. This document is a February 3,
 25 2015 medical record from Isaac Regev, M.D. who was one of the doctors consulted
 26 regarding plaintiff Juarez's claims in his workers' compensation action. This document is
 27 the same documents as Exhibit 36 but was produced in the workers' compensation action.

28 -5-

DECLARATION OF ALEX P. CATALONA IN SUPPORT OF DEFENDANT PRECISION VALVE
 & AUTOMATION, INC.'S MOTION FOR SUMMARY JUDGMENT

Becherer
 Kannett &
 Schweitzer

1255 Powell St.
 Emeryville, CA
 94608
 510-658-3600

1 Exhibit 36 was produced in this action.

2 38. Attached hereto as Exhibit 38 is a true and correct copy of Exhibit 36 to the
3 deposition of plaintiff Ruben Juarez taken in this action. This document is a form filled
4 out by plaintiff Ruben Juarez and dated March 25, 2015.

5 39. Attached hereto as Exhibit 39 is a true and correct copy of an April 13, 2016
6 report by Hamlin Psyche Center/Gayle K. Windman, Ph.D., which was produced in this
7 action. Dr. Windman is one of the doctors consulted regarding plaintiff Juarez's claims in
8 his workers' compensation action. This document is the same documents as Exhibit 40
9 but was produced in this action. Exhibit 40 was produced in the workers' compensation
10 action.

11 40. Attached hereto as Exhibit 40 is a true and correct copy of Exhibit 38 to the
12 deposition of plaintiff Ruben Juarez taken in this matter. This document is an April 13,
13 2016 report by Hamlin Psyche Center/Gayle K. Windman, Ph.D. who were doctors
14 consulted regarding plaintiff Juarez's claims in his workers' compensation action. This
15 document is the same documents as Exhibit 39 but was produced in the workers'
16 compensation action. Exhibit 39 was produced in this action.

17 41. Attached hereto as Exhibit 41 is a true and correct copy of relevant excerpts
18 from the three volumes of deposition testimony of Ruben Juarez taken in his workers'
19 compensation action.

20 42. Attached hereto as Exhibit 42 is a true and correct copy of Exhibit 26 to the
21 deposition transcript of Ruben Juarez in this matter which is a series of March, 2015
22 emails produced by Ruben Juarez in this action that is bates stamped JUAREZ00964-
23 JUAREZ00947.

24 43. Attached hereto as Exhibit 43 is a true and correct copy of emails between
25 plaintiffs and defense counsel dated March 5, 2018 which confirms that Mr. Juarez did not
26 need an interpreter for his deposition.

27 44. Attached hereto as Exhibit 44 is a true and correct copy of a series of print
28

-6-

DECLARATION OF ALEX P. CATALONA IN SUPPORT OF DEFENDANT PRECISION VALVE
& AUTOMATION, INC.'S MOTION FOR SUMMARY JUDGMENT

Becherer
Kannett &
Schweitzer

1255 Powell St.
Emeryville, CA
94608
510-658-3600

1 outs which show publically available MSDS sheets for Arathane products. I printed these
 2 documents from this website on June 27, 2018. These show all Arathane MSDS sheets
 3 currently available from the website "Free SDS Search" at www.msds.com.

4 45. Attached hereto as Exhibit 45 is a true and correct copy of a series of print
 5 outs which show publically available MSDS sheets for Humiseal products. I printed these
 6 documents from this website on June 27, 2018. These show all Humiseal MSDS sheets
 7 currently available from the website "Free SDS Search" at www.msds.com.

8 46. Attached hereto as Exhibit 46 is a true and correct copy of a series of print
 9 outs from the website "Free SDS Search" at www.msds.com. I printed these documents
 10 from this website on July 3, 2018. The first page shows this site as it appeared on July 3,
 11 2018. Pages 2 through 8 show this website as it existed from 2011 to 2018. These
 12 printouts are from the Internet Archive's Wayback Machine, a digital archive of all
 13 internet content from webpages across the internet, which is maintained by San Francisco
 14 non-profit Internet Archive: <https://archive.org/>. I have personally used the Free SDS
 15 Search as a litigation tool during this period and can confirm that pages 2 through 8 show
 16 how it appeared in the 2011-2018 time frame, and that this website has remained
 17 substantially the same to the best of my knowledge at least since 2011.

18 47. Attached hereto as Exhibit 47 is a true and correct copy of printouts from
 19 webpages which show that the MSDS for Humiseal thinner 521 can be obtained by
 20 searching Google for "Humiseal thinner 521 MSDS." I printed these documents on July
 21 4, 2018. I clicked the link which is indicated with an arrow on page 1 of Exhibit 47, and
 22 page 3-6 of this exhibit show the PDF of the MSDS sheet for Humiseal thinner 521 which
 23 is found at this link.

24 48. Attached hereto as Exhibit 48 is a true and correct copy of Exhibit 13 to the
 25 deposition of plaintiff Ruben Juarez, which is the Safety Data Sheet for 285 Lead Free
 26 Flux Cored Solder produced by plaintiffs' counsel in this action and bates stamped
 27 JUAREZ00890-00987.

28 -7-

DECLARATION OF ALEX P. CATALONA IN SUPPORT OF DEFENDANT PRECISION VALVE
 & AUTOMATION, INC.'S MOTION FOR SUMMARY JUDGMENT

Becherer
 Kannett &
 Schweitzer

1255 Powell St.
 Emeryville, CA
 94608
 510-658-3600

49. Attached hereto as Exhibit 49 is a true and correct copy of the Material Safety Data Sheet for Arathane 5750A produced by plaintiffs' counsel in this action and bates stamped JUAREZ00898-00913. The first page of this MSDS sheet was marked as Exhibit 15 to the deposition of plaintiff Ruben Juarez and follows this 16 page MSDS sheet within Exhibit 49.

50. Attached hereto as Exhibit 50 is a true and correct copy of Exhibit 8 to the deposition of plaintiff Ruben Juarez, which is the Material Safety Data Sheet for Arathane 5750 B(LV) produced by plaintiffs' counsel in this action and bates stamped JUAREZ00914-00925.

51. Attached hereto as Exhibit 51 is a true and correct copy of Exhibit 10 to the deposition of plaintiff Ruben Juarez, which is the Material Safety Data Sheet for Arathane 5750-A/B (LV) produced by plaintiffs' counsel in this action and bates stamped JUAREZ00926-00933.

52. Attached hereto as Exhibit 52 is a true and correct copy of Exhibit 12 to the deposition of plaintiff Ruben Juarez, which is the Material Safety Data Sheet for Humiseal 1A33 Aerosol produced by plaintiffs' counsel in this action. It is attached to this declaration as it was produced. It was not bates-stamped although the title of the PDF for this document which was received by plaintiffs' counsel states "Juarez 934-" which may indicate that plaintiffs had intended for it to be bates-stamped.

53. Attached hereto as Exhibit 53 is a true and correct copy of Exhibit 14 to the deposition of plaintiff Ruben Juarez which is the Material Safety Data Sheet for Humiseal Thinner 521EU produced by plaintiffs' counsel in this action and bates stamped JUAREZ00938-00940.

54. Attached hereto as Exhibit 54 is a true and correct copy of Exhibit 11 to the deposition of plaintiff Ruben Juarez, which is a Material Safety Data Sheet for Isopropyl Alcohol (IPA) produced by plaintiffs' counsel in this action and bates stamped JUAREZ00941-00943.

-8-

DECLARATION OF ALEX P. CATALONA IN SUPPORT OF DEFENDANT PRECISION VALVE
& AUTOMATION, INC.'S MOTION FOR SUMMARY JUDGMENT

Becherer
Kannett &
Schweitzer

1255 Powell St.
Emeryville, CA
94608
510-658-3600

55. Attached hereto as Exhibit 55 is a true and correct copy of the Material Safety Data Sheet for Mildly Activated Rosin Cored Wire, which was produced by plaintiffs' counsel in this action and bates stamped JUAREZ00944-00945. The first page of this MSDS sheet was marked as Exhibit 9 to the deposition of plaintiff Ruben Juarez and this page follows this 2 page MSDS sheet within Exhibit 55.

56. Attached as Exhibit 56 is a true and correct copy of Exhibit 37 to the deposition of plaintiff Ruben Juarez, which is an October 28, 2014 email with attached letter sent by Ruben Juarez to Jane Malabug at SpaceX.

57. Attached as Exhibit 57 is a true and correct copy of a series of emails between defense counsel and plaintiffs' counsel scheduling and confirming a teleconference pursuant to Local Rule 7-3 in advance of the filing of this motion for summary judgment. I participated in this teleconference with two of plaintiffs' attorneys on July 16, 2018 at 3:30 pm. We discussed the basis and substance of PVA's forthcoming motion for summary judgment regarding the statute of limitations and partial summary judgment regarding plaintiff's failure to warn claims and strict products liability cause of action. At the conclusion of this call, the parties were unable to reach an agreement to avoid filing any portion of PVA's motion for summary judgment.

58. Unless otherwise indicated and except for highlighting provided for ease of reference or required redactions, the attached documents submitted with this motion, wherever they appear in this and the accompanying declarations, are true and correct copies of the documents as they were received from SpaceX, PVA, plaintiffs and other parties that produced documents during the course of this litigation.

59. Plaintiffs' lawsuit was filed on February 28, 2017 and removed to this Court on May 3, 2017. This Court's scheduling conference was held on or about July 10, 2017. For the last 12 months before PVA's motion for summary judgment was filed, there has been adequate time to conduct discovery relevant to the issues in this motion. Since then, the parties have made initial and supplemental written disclosures and engaged in

substantial written discovery and document subpoenas served upon third parties including SpaceX, plaintiffs' workers' compensation attorneys and numerous medical providers.

60. I declare under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct. Executed on August 24, 2018 in Emeryville, California.

/s/ Alex P. Catalona
Alex P. Catalona

**Becherer
Kannett &
Schweitzer**

1255 Powell St.
Emeryville, CA
94608
510-658-3600